

Appl. No.: 10/687,036  
Amdt. dated 03/20/2006  
Reply to Official Action of January 9, 2006

### **REMARKS/ARGUMENTS**

This Reply is being filed in response to the final Official Action of January 9, 2006. Initially, Applicants would like to thank the Examiner for taking the time to conduct a telephone interview with Applicants' undersigned attorney regarding the final Official Action. Applicants also appreciate the indication in the final Official Action that Claims 3, 5-10, 13, 17, 19-24, 27, 28, 31, 33-38 and 41 are allowable. However, the final Official Action continues to reject remaining claims, namely Claims 1, 2, 4, 11, 12, 14-16, 18, 25, 26, 29, 30, 32, 39 and 40. More particularly, the final Official Action continues to reject Claims 1, 2, 11, 12, 14-16, 29 and 30 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Application Publication No. 2002/022961 to Sepanaho. The final Official Action also continues to reject Claims 4, 18, 25, 26, 32, 39 and 40 under 35 U.S.C. § 103(a) as being unpatentable over the Sepanaho publication in view of either U.S. Patent Application Publication No. 2004/0225199 to Evanyk et al., or U.S. Patent Application Publication No. 2004/0203413 to Harumoto. As explained below, Applicants again respectfully submit that the claimed invention of the present application is patentably distinct from the Sepanaho, Evanyk and Harumoto publications, taken individually or in combination, and accordingly traverse the rejections of the claims as being anticipated by or unpatentable over the respective publications. In view of the remarks presented herein, Applicants respectfully request reconsideration and allowance of all of the pending claims of the present application. Alternatively, as the remarks presented herein do not raise any new issues or introduce any new matter, Applicant respectfully requests entry of this correspondence for purposes of narrowing the issues upon appeal.

#### ***A. Claims 1, 2, 11, 12, 14-16, 29 and 30 are Patentable over Sepanaho***

As explained in response to the first Official Action and during the aforementioned telephone interview, in contrast to the invention of independent Claim 1, the Sepanaho publication does not teach or suggest determining whether the terminal is actively operating an application, or performing a predefined action based upon the application and the state of the application if the terminal is actively operating an application. The Sepanaho publication does disclose a user device receiving a URL from a short-range radio transmitter for requesting

Appl. No.: 10/687,036  
Amdt. dated 03/20/2006  
Reply to Official Action of January 9, 2006

information from the URL. Instead of determining whether the user device is actively operating an application as in the claimed invention, however, the Sepanaho publication discloses executing a software program for receiving the URL, and for launching a browser to request information from the received URL. The Sepanaho system is configured to perform a series of steps irrespective of a determination of whether the software program or browser is actively operating on the terminal.

In response to the above explanation, the final Official Action has taken the position that the Sepanaho publication does disclose the aforementioned feature, given the broadest reasonable interpretation of the claimed invention. In this regard, the final Official Action interprets the user device of the Sepanaho publication being powered on in a state of receiving a URL as corresponding to determining whether the terminal is actively operating an application, as recited by the claimed invention. The final Official Action then interprets the user device of the Sepanaho publication executing the URL as corresponding to performing a predefined action based on the application and the state of the application.

Contrary to the explanation provided by the final Official Action, Applicants maintain that the Sepanaho publication does not teach or suggest the claimed invention, including the aforementioned features. In this regard, Applicants note that the claimed invention recites both receiving information over an air interface and determining whether the terminal is actively operating an application. If, as interpreted by the final Official Action, the Sepanaho publication requires satisfaction of a condition (a powered on device in a state of receiving a URL) to receive information (the URL), it would not make sense for the Sepanaho publication to further determine whether the condition is met (determining whether the terminal is actively operating an application), and perform another action if the condition is met. In other words, if the Sepanaho publication requires satisfaction of the aforementioned condition to receive a URL, then that condition is necessarily also met for also executing the URL, thereby rendering unnecessary any determination of whether the condition is met before executing the URL. Thus, by broadly interpreting the claimed invention as in the final Official Action, the final Official Action has improperly read the recited determining step out of the claims. And as explained in

Appl. No.: 10/687,036  
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the MPEP, "when evaluating the scope of a claim, every limitation in the claim must be considered." MPEP § 2106 II.C (emphasis in original).

In view of the foregoing, Applicants respectfully submit that the invention of independent Claim 1, and by dependency Claims 2-14, is patentably distinct from the system and method of the Sepanaho publication. Applicants also respectfully submit that the independent Claims 15 and 29 recite subject matter similar to that of independent Claim 1. In this regard, both independent Claims 15 and 29 recite determining whether the terminal is actively operating an application, and if the terminal is actively operating an application, performing a predefined action based upon the application and the state of the application. Thus, Applicants respectfully submit that independent Claims 15 and 29, and by dependency Claims 16-28 and 30-41, are also patentably distinct from the Sepanaho publication for at least the same reasons given above with respect to independent Claim 1.

Applicants therefore respectfully submit that the rejection of Claims 1, 2, 11, 12, 14-16, 29 and 30 under 35 U.S.C. § 102(b) as being anticipated by the Sepanaho publication is overcome.

***B. Claims 4, 18, 25, 26, 32, 39 and 40 are Patentable over Sepanaho in view of either Evanyk or Harumoto***

As indicated above, the final Official Action rejects dependent Claims 4, 18, 25, 26, 32, 39 and 40 as being unpatentable over the Sepanaho publication in view of either the Evanyk publication or the Harumoto publication. Similar to the Sepanaho publication, however, Applicants respectfully submit that neither the Evanyk publication nor the Harumoto publication teaches or suggests determining whether the terminal is actively operating an application, or performing a predefined action based upon the application and the state of the application if the terminal is actively operating an application, as recited by independent Claims 1, 15 and 29, and by dependency Claims 4, 18, 25, 26, 32, 39 and 40. As none of the Sepanaho, Evanyk and Harumoto publications teach or suggest this feature of the claimed invention, no combination of those publications can teach or suggest this feature.

Appl. No.: 10/687,036  
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Further with respect to the Evanyk publication. Applicants again note their inability to locate the quoted passage attributed thereto (passage attributed to paragraph 20 of Evanyk). Accordingly, Applicants respectfully request that in the next Official Action, the Examiner confirm that the Evanyk publication does in fact include the cited passage.

Also, Applicants question whether, even if the Sepanaho and Evanyk publications did disclose features of the claimed invention as alleged by the first Official Action, one skilled in the art would be motivated to modify the Sepanaho system to include the alleged feature of the Evanyk system "to perhaps ask the signaling device for additional information or communicate that the data transmitted from the tag to the user device was faulty and to resend the data." In this regard, as the Sepanaho system is already configured to receive a URL from the radio transmitter, why would Sepanaho require communication back to the transmitter for receiving additional information as opposed to just sending such additional information along with the URL. Also, as the user device receives the URL for the explicit purpose of receiving information from the URL, Applicants question what benefit the Sepanaho system would receive from providing additional information via the radio transmitter, as opposed to providing such information via the URL. Moreover, as to notifying the tag of faulty data, why would the user device just not establish a link with the radio transmitter to again receive the URL from the radio transmitter, instead of communicating to the radio transmitter that the received URL was faulty to trigger the radio transmitter to again transmit the URL. It would appear that again establishing a link with the radio transmitter could be accomplished by the Sepanaho system alone, while requiring additional communication with the radio transmitter would, as suggested by the Official Action, require adding further logic to the components of the Sepanaho system.

In view of the foregoing, Applicants respectfully submit that the claimed invention of dependent Claims 4, 18, 25, 26, 32, 39 and 40 is patentably distinct from the Sepanaho, Evanyk and Harumoto publications, individually or in combination. Thus, Applicants also respectfully submit that the rejections of Claims 4, 18, 25, 26, 32, 39 and 40 under 35 U.S.C. § 103(a) as being unpatentable over the Sepanaho publication in view of either the Evanyk publication or the Harumoto publication is overcome.

Appl. No.: 10/687,036  
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### CONCLUSION

In view of the remarks presented above, Applicants respectfully submit that all of the claims of the present application are in condition for allowance. It is respectfully requested that a Notice of Allowance be issued in due course. The Examiner is encouraged to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present application. As explained above, no new matter or issues are raised by this Reply, and as such, Applicant alternatively respectfully requests entry of this Reply for purposes of narrowing the issues upon appeal.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

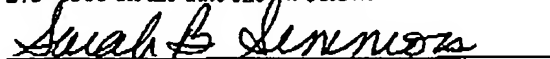


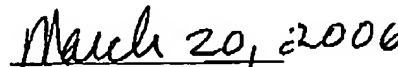
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